

VIRGINIA:

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA

Alexandria Division

COMMONWEALTH OF VIRGINIA)

vs.)

Case No: 1:22-cv-01047

PATRICK O. LOCKHART)

Defendant)

MOTION TO VACATE FINAL ORDER IN STATE COURT

COMES NOW PATRICK LOCKHART, Defendant, pursuant to 28 U.S.C. 1455, In support, Mr Lockhart states as follow:

AUTHORITIES

1) 28 U.S. Code § 1455(b)(3) states "*The filing of a notice of removal of a criminal prosecution shall not prevent the State court in which such prosecution is pending from proceeding further, except that a judgment of conviction shall not be entered unless the prosecution is first remanded.*"

FACTS

2) On 9/14/22, Mr Lockhart filed a Notice of Removal in this Court and also filed the Notice in the Fairfax Circuit Court that same day. The Attorney General Jason S. Miyares was also served the notice.

3) On 9/21/22, the Fairfax Circuit Court refused to enforce 28 U.S. Code § 1455(b)(3) and entered a final order confirming the judgment of conviction. (See Exhibit 1)

WHEREFORE, Mr Lockhart asks this Court to vacate the final order dated 9/21/22 for FAirfax Circuit Court Case MI-2021-284 or declare it void due to lack of jurisdiction and violation of 28 U.S. Code § 1455(b)(3), and any other relief that is just and appropriate.

CERTIFICATION

No assistance from any licensed attorney was provided in writing this paper.

I declare under penalty of perjury that the foregoing is true and correct.


PATRICK O. LOCKHART


Date

P.O. Box 446 Fairfax, VA 22038

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CERTIFICATE OF SERVICE

This is to certify that a true copy of this Motion will be emailed to the Virginia Attorney General Jason S. Miyares (service@oag.state.va.us) on 10/7/22.


PATRICK O. LOCKHART

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FILED